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Dated: July 2, 2008

Signature: \_\_\_\_\_

(Anthony Matson)

Patent

Docket No. 532212000623

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Thomas L. CANTOR

Serial No.: 10/617,489

Filing Date: July 10, 2003

For: METHODS, KITS AND ANTIBODIES  
FOR DETECTING PARATHYROID  
HORMONE

Examiner: C. Cheu

Group Art Unit: 1641

**SUPPLEMENTAL INFORMATION DISCLOSURE  
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98**

MS RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO/SB/08a/b. Copies of the foreign document and non-patent literature documents are also submitted herewith. The Examiner is requested to consider and make these documents of record.

Document numbers 12-14 are from the prosecution history of Application No. 11/437,428. Applicants filed related Application No. 10/760,091 to provoke interference with Application No. 09/898,398. Application No. 11/437,428 claims the benefit of 09/898,398. Document number 51 is from the prosecution history of related Application No. 10/760,091.

Document numbers 15-18 are from the prosecution history of Application No. 10/168,185. Applicants filed related Application No. 10/945,608 to provoke interference with

Application No. 10/168,185. Document number 25 is from the prosecution of related Application No. 10/945,608.

Document numbers 19-22 are from the prosecution history of Application No. 10/954,695. Applicants filed related Application No. 10/641,780 to provoke interference with Application No. 09/730,174. Application No. 10/954,695 claims the benefit of Application No. 09/730,174. Document number 23 is from the prosecution history of Application No. 10/998,927, which also claims the benefit of 09/730,174.

Document numbers 11, 26, and 41 are from *Scantibodies Laboratory, Inc. v. Immutopics, Inc.*, currently pending in the United States District Court for the Central District of California, Case No. CV 04-08871 MRP (MANx). This litigation involves U.S. Patent No. 6,689,566. The present application is Continuation-in-Part of U.S. Patent No. 6,743,590, which is a Continuation-in-Part of U.S. Patent No. 6,689,566. Scantibodies Laboratory, Inc. is the assignee of the present application. Document numbers 24 and 50 are from the Reexamination of U.S. Patent No. 6,689,566, which has Control No.'s 90/007,685 and 90/007,732.

Document number 26 is a Claim Construction Order from *Scantibodies Laboratory, Inc. v. Immutopics, Inc.* The Court reached the following construction of terms:

1. "Specific for" is defined as **exhibiting significantly greater binding affinity for the PTH(2-8) region of whole PTH than for the PTH(9-84) region.**

2. "Specifically binds to whole parathyroid hormone but does not specifically bind to an interfering non-(1-84) parathyroid hormone fragment" cannot be defined by the Court because the level of specificity for whole PTH over interfering fragments is indeterminate. An absolute standard, which would preclude all binding to interfering fragments, is inappropriate. The proper standard is clearly relative, but the Court is unable to determine a measure of the degree or relativity.

3. "Not detecting an interfering non-(1-84) parathyroid hormone fragment" is similarly indeterminate.

Document number 41 is an Order granting and denying Immutopics' various summary judgment motions from *Scantibodies Laboratory, Inc. v. Immutopics, Inc.* The court granted Immutopics' Motion for Summary Judgment of Non-Infringement of U.S. Patent No. 6,689,566 (the motion was submitted under seal in the Supplemental Information Disclosure Statement dated December 6, 2007 as document number 7). The court denied Immutopics' Motion for Summary Judgment for Failing to Disclose the Best Mode (the motion was submitted under seal in the Supplemental Information Disclosure Statement dated December 6, 2007 as document number 1). The court denied Immutopics' Motion for Summary Judgment of Patent Invalidity for Lack of Enablement (the motion was submitted under seal in the Supplemental Information Disclosure Statement dated December 6, 2007 as document number 5). The court denied Immutopics' Motion for Summary Judgment of Patent Invalidity for Violation of On Sale Bar and for Obviousness (the motion was submitted under seal in the Supplemental Information Disclosure Statement dated December 6, 2007 as document number 3).

Document numbers 42-49 are from Patent Interference No. 105,575 (MPT), between related Application No. 10/641,780 and U.S. Patent No. 6,838,264.

Document number 27 is a Non-Final Office Action from related Application No. 11/799,726. Document numbers 1-7 and 28 were cited by the Examiner in the Office Action. Document number 8 is the published application for Application No. 11/799,726.

Document number 9 is the published application for related Application No. 11/894,367. Document numbers 29-40 are from the prosecution history of other applications filed by the Applicants.

Document number 52 is a European Search Report from Application No. EP 06 00 8181, which is related to the present application. Document number 10 was cited in the EP Search Report and has not been previously disclosed.

Applicants also point out that the following Information Disclosure Statements were previously submitted before the mailing of the second Notice of Allowance, and respectfully request that the examiner consider the references and return the initialed Forms PTO/SB/08a/b:

- December 6, 2007                      8 references (filed under seal with a Petition to Expunge Information)
- February 28, 2008                      14 references
- March 6, 2008                              1 reference
- March 14, 2008                            1 reference
- March 17, 2008                            2 references
- March 20, 2008                            6 references
- March 24, 2008                            13 references

This Information Disclosure Statement is submitted:

- ☐ With the application; accordingly, no fee or separate requirements are required.
- ☒ Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- ☐ Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- ☐ After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
  - ☐ A fee is required. A check in the amount of \_\_\_ is enclosed.
  - ☐ A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly; no fee is believed to be due.
- ☐ After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.

- ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of \_\_\_ is enclosed.
- ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17 is attached to this submission in duplicate.)

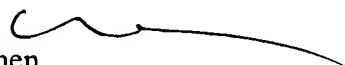
Applicants would appreciate the Examiner initialing and returning the Form PTO/SB/08a/b, indicating that the information has been considered and made of record herein.

The information contained in this Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal form is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. § 1.17 (p)) is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petition and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 532212000623.

Dated: July 2, 2008

Respectfully submitted,

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